

**REMARKS****Summary of the Office Action**

Claims 16-20 and 24-39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yao et al. (US, 2003/0100059).

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Abstract stands objected because it exceeds 150 words.

**Summary of Response to the Office Action**

Applicants amend claims 25 and 30 to further define the invention and cancel claims 16-20 and 24 without prejudice or disclaimer. Claims 1-15 and 21-23 are withdrawn from further consideration due to a Restriction Requirement. Accordingly, claims 25-39 are presently pending for consideration. Furthermore, Applicants amend Abstract.

**Objection of Abstract**

Applicants amend the Abstract so that the total number of words is within the range of 50 to 150 words. Accordingly, Applicants respectfully request that objection of Abstract be withdrawn.

**Rejection under 35 U.S.C. § 112, second paragraph**

Applicants cancel claim 19 without prejudice or disclaimer. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 19 under 35 U.S.C. § 112, second paragraph.

**All Claims Define Allowable Subject Matter**

Claims 16-20 and 24-39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yao et al. (US, 2003/0100059). Applicants respectfully traverse the rejection of claims at least for the following reasons.

Applicants cancel claims 16-20 and 24. Accordingly, Applicants respectfully request that the rejection of claims 16-20 and 24 under 35 U.S.C. § 102(e) be withdrawn.

Independent claim 25, as amended, recites an intercellular-reaction measuring apparatus including the features of “specifying means” to specify the region(s) in the specimen, having in a higher proportion than a stated standard, a cell(s) where the stated protein is present, and “selection means” to select the intensity of the second light emitted from that regions specified by the specifying means. Similarly, independent claim 30, as amended, recites an intercellular-reaction measuring apparatus including the features of “specifying means” to specify a cell colony (specifically, the cell colony in non-contact state) containing a cell(s) where the stated protein is present, and “selection means” to select the intensity of second light emitted from that specified cell colony. Applicants respectfully submit that at least these features of amended independent claims 25 and 30 are neither taught nor suggested by Yao et al.

In contrast to the Applicants’ claimed invention, Yao et al. appears to teach in the Example 1 (paragraph [0142] and FIG. 2) that a mixture of cells is prepared by introducing the fluorescent protein (GFP) into cells, in which the GFP protein emits fluorescence in accordance with the presence of a particular protein (channel protein). Yao et al. then uses a fluorescent dye called Fura to measure the concentration of calcium ion in the cells emitting fluorescence when a chemical substance is applied to the mixture. Applicants respectfully submit that the temporal

change (change in time) in calcium ion concentration as shown in FIG. 2C merely indicates that the rise in the calcium ion concentration is large "in cells in which the GFP emits light," but calcium ion concentration as a whole in the total cells is small. On the other hand, Applicants' claimed invention is characterized by specifying a "region" within the specimen (i.e., mixture of cells) where a proportion of cell having the stated protein is higher, and detecting the intensity of the second light emitted from that specified region. In addition, the Applicants' claimed invention is also characterized by specifying "cell colonies" containing cells emitting the first light and detecting the intensity of the second light. Accordingly, Applicants respectfully submit that Yao et al. fails to teach or suggest every element of amended independent claims 25 and 30, hence dependent claims 26-29 and 31-39.

Thus, in light of the arguments presented above, Applicants respectfully assert that Yao et al. fails to teach or suggest at least the features of amended independent claims 25 and 30. Accordingly, Applicants respectfully request that the rejection of claims under 35 U.S.C. § 102(e) should be withdrawn because Yao et al. fails to anticipate at least the amended independent claims 25 and 30, hence dependent claims 26-29 and 31-39.

### CONCLUSION

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application, withdrawal of all rejections, and the timely allowance of all pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.R.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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Dated: November 22, 2005

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